

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL WRIT PETITION NO. 12 OF 2003

Sameer Carvalho,
Prisoner No.940,
Central Jail, Aguada.

... Petitioner.

versus

State of Goa
(Through Inspector General
of Prisons) Panaji, Goa.

... Respondent.

Mrs. Asha Dessai, Advocate appointed under Legal Aid
Scheme.

Mr. S. N. Sardesai, Public Prosecutor for the State.

CORAM: P. V. HARDAS, J.

DATED: 12TH JUNE, 2003.

ORAL JUDGMENT

Rule made returnable forthwith by consent
of learned Counsel appearing for the parties.

2. The Petition is taken up for final hearing
at the stage of Admission.

3. This Petition has been filed by the
Petitioner who is undergoing a sentence of
imprisonment of 10 years and fine of Rs.1,00,000/-
for an offence punishable under Section 21 of the

N.D.P.S. Act, 1985 in Special Criminal Case No.5 of 1994. The Petitioner is stated to have served almost 9 years 4 months of the sentence of imprisonment passed on him.

4. The learned Inspector General of Prisons, Panaji, Goa, by his Order dated 16th March, 2003, rejected the parole application on two grounds. The first ground being that the reason stated by the Petitioner for his release on parole does not seem to be genuine and of emergent nature as the Petitioner had availed of the facilities of release on parole on the said ground. The second ground being that since the Petitioner was arrested for an offence under the N.D.P.S. Act, 1985, there was every possibility of the Petitioner involving himself again in the drug trafficking being the season of foreigners in the State.

5. Mrs. Asha Dessai, learned Counsel appointed under Legal Aid Scheme has urged before me that the Petitioner had sought parole also on the ground that the house of the Petitioner is in a dilapidated condition and the same requires urgent repairs apart from the ground that his grandmother and his mother were indisposed.

6. It appears that the learned Inspector General of Prisons, Panaji, Goa, has not taken into consideration the ground that the house of the Petitioner is in a dilapidated condition and requires immediate repairs. The second reason also does not appear to be germane as the Petitioner was earlier released on parole from 26th April, 2002 to 6th August, 2002 and apparently, the Order does not show that there was any material to arrive at a conclusion that the Petitioner if released on parole would indulge in drug trafficking. Even otherwise, the tourist season being over the second reason would not survive.

7. Since, the learned Inspector General of Prisons, Panaji, Goa, has not considered the grounds stated by the Petitioner, the Order impugned in the present Petition dated 16th March, 2003, rejecting the parole application of the Petitioner, is hereby quashed and set aside and the matter is remitted back to the learned Inspector General of Prisons, Panaji, to reconsider the application afresh within a period of three weeks from today.

8. Rule made absolute in the above terms with

no order as to costs.

9. Copy of this Judgment be sent to the
Petitioner who is stated to be in Jail.

P. V. HARDAS, J.

RD.